

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ORDER
08-CR-70-A

ARMANDO GONZALEZ,
Defendant.

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1). Defendant filed a motion to suppress out-of-court identifications and requested a hearing pursuant to *United States v. Wade*, 388 U.S. 218 (1967).

On July 18, 2013, Magistrate Judge McCarthy filed a Decision and Order (Dkt. No. 42) denying the defendant's motions without prejudice to renewal before trial. On July 24, 2013, the defendant filed an appeal from the Magistrate Judge's Decision and Order. Defendant filed a Supplemental Brief on August 22, 2013. The government filed a response on September 3, 2013. Oral argument on the appeal was held on October 21, 2013.

Pursuant to 28 U.S.C. § 636(b)(1)(A), the district court "may reconsider any pretrial matter under this [section] where it has been shown that the magistrate's order is clearly erroneous or contrary to law." The Court has

reviewed defendant's appeal and Magistrate Judge McCarthy's Decision and Order. Upon such review and after hearing argument from counsel, the Court finds that Magistrate Judge McCarthy's Decision and Order is neither clearly erroneous nor contrary to law.

Accordingly, the Court affirms the Decision and Order. The parties shall appear to set a date for trial November 25, 2013 at 12:30 p.m.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: November 22, 2013